

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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4 TRANSPERFECT GLOBAL, INC.;
5 TRANSPERFECT TRANSLATIONS
6 INTERNATIONAL, INC.; and
7 TRANSLATIONS.COM, INC.

No. C 10-2590 CW
ORDER ON MOTIONS
TO SEAL (Docket
Nos. 489, 494,
509, 518, 522)

Plaintiffs,

v.

8 MOTIONPOINT CORPORATION,
9

Defendant.

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11 Before the Court are numerous administrative motions, filed
12 by multiple parties, to seal materials related to Plaintiffs'
13 motion for judgment as a matter of law.

14 Under Civil Local Rule 79-5, a document may be filed under
15 seal only if a party establishes that the portions sought to be
16 sealed "are privileged, protectable as a trade secret or otherwise
17 entitled to protection under the law." Civ. L.R. 79-5(b). Any
18 sealing request must be narrowly tailored to cover only sealable
19 material. Id. The request must be supported by the designating
20 party's declaration establishing that the information is sealable.
21 Id. subsection (d).

22 "Historically, courts have recognized a 'general right to
23 inspect and copy public records and documents, including judicial
24 records and documents.'" Kamakana v. City & Cnty. of Honolulu,
25 447 F.3d 1172, 1178 (9th Cir. 2006). In considering a sealing
26 request, the Court begins with "a strong presumption of access
27 [as] the starting point." Id.

1 A party seeking to seal records attached to a dispositive
2 motion bears the burden of establishing "compelling reasons
3 supported by specific factual findings that outweigh the general
4 history of access and the public policies favoring disclosure."
5 Id. at 1178-79. This is because dispositive motions represent
6 "the heart of the interest in ensuring the public's understanding
7 of the judicial process and of significant public events." Id. at
8 1179.

9 The strong presumption in favor of access does not apply with
10 equal force to non-dispositive motions, which may be only
11 "tangentially related" to the underlying cause of action. Id. at
12 1179-80. A party seeking to seal materials related to non-
13 dispositive motions must show good cause by making a
14 "particularized showing" that "specific prejudice or harm will
15 result" should the information be disclosed. Id.; Fed. R. Civ. P.
16 26(c). "[B]road, conclusory allegations of potential harm" will
17 not suffice. Foltz v. State Farm Mut. Auto. Ins. Co., 331 F.3d
18 1122, 1131 (9th Cir. 2003).

19 The Court rules as follows on the parties' motions to seal.

| Docket No. | Ruling |
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| 489 | Plaintiffs seek permission to file a redacted version of their motions (1) to amend the judgment to award supplemental damages and interest; (2) to amend the injunction; (3) for judgment as a matter of law of induced infringement; (4) for judgment as a matter of law of contributory infringement; and (5) for an exceptional case finding and attorneys' |

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| | <p>1 fees (the "consolidated post-judgment motion").¹ 2 The redactions on pages ii, viii, and 1-5 conceal 3 financial information that is properly redacted as 4 proprietary; redactions on page 17 conceal other 5 confidential information. The motion is GRANTED 6 because Plaintiffs limit their request to only 7 confidential information.</p> |
| 494 | <p>8 Plaintiffs seek permission to file under seal all 9 or part of the following seven documents:</p> <p>10 1. The Declaration of Creighton G. Hoffman 11 (Hoffman Declaration) and supporting exhibits. 12 With regard to the Hoffman Declaration, the 13 motion is GRANTED because Plaintiffs limit 14 their request to only confidential financial 15 information.</p> <p>16 2. The Declaration of Gabriel S. Gross (Gross 17 Declaration) in support of Plaintiffs' motion 18 for an exceptional case finding and attorneys' 19 fees. Plaintiffs seek to redact from the 20 Gross Declaration the average associate and 21 partner billing ranges of Plaintiffs' counsel,</p> |

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23 ¹ Plaintiffs' administrative motions at Docket Nos. 489 and
24 494 are identical, with each seeking permission to file under seal
25 all or part of eight documents. However, Plaintiffs attached to
Docket No. 489 only the first document, their consolidated post-
judgment motion; the other seven documents they attached to Docket
No. 494. Thus, the Court construes Docket No. 489 as addressing
only Plaintiffs' consolidated post-judgment motion, and construes
Docket No. 494 as addressing the other documents that Plaintiffs
seek permission to file under seal.

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1 the law firms Latham & Watkins LLP (Latham);
2 Kasowitz, Benson, Torres & Friedman LLP
3 (Kasowitz) (collectively, "Plaintiffs'
4 counsel"); and Orrick, Herrington & Sutcliffe
5 LLP (Orrick), on the grounds that Plaintiffs'
6 counsel consider these rates to be "highly
7 sensitive and confidential business
8 information," and that its disclosure would
9 harm Plaintiffs' counsel "in their ability to
10 secure business from future clients." The
11 Court is not persuaded. Parties seeking an
12 award of attorneys' fees routinely reveal
13 their hourly rates, lest it appear that the
14 award sought is merely drawn from thin air.
15 With regard to the Gross Declaration, the
16 motion is DENIED.

17 3. Exhibit A to the Gross Declaration.

18 Plaintiffs seek to redact from Exhibit A
19 Plaintiffs' counsel's individual summaries of
20 time spent on the matter and their individual
21 billing rates. With regard to Exhibit A to
22 the Gross Declaration, the motion is DENIED
23 for the same reasons articulated in denying
24 the motion with regard to the Gross
25 Declaration.

26 4. Exhibit B to the Gross Declaration.

27 Plaintiffs seek to seal in its entirety

Exhibit B, which contains Orrick's time keeping policy, and which an Orrick associate described as "highly sensitive and confidential." In fact, the policy appears to be routine, and the Court is not persuaded that any harm would result from its release. With regard to Exhibit B to the Gross Declaration, the motion is DENIED.

5. Exhibit D to the Declaration of Nikolaus A. Woloszczuk (Woloszczuk Declaration) in support of the consolidated post-judgment motion.

Plaintiffs seek to redact parts of the transcript of the videotaped Rule 30(b)(6) deposition of MotionPoint CEO William S. Fleming. With regard to Exhibit D to the Woloszczuk Declaration, the motion is GRANTED because the Plaintiffs limit their request to only confidential information.

6. Exhibit E to the Woloszczuk Declaration.

Plaintiffs seek to seal in its entirety a letter from Mr. Fleming to investor Michael Feinberg. With regard to Exhibit E to the Woloszczuk declaration, the motion is GRANTED because Plaintiffs limit their request to only confidential financial and marketing information.

7. Exhibit F to the Woloszczuk Declaration.

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| 1 | Plaintiffs seek to seal in its entirety an |
| 2 | email from Mr. Fleming to MotionPoint |
| 3 | executive Enrique Travieso. With regard to |
| 4 | Exhibit F to the Woloszczuk declaration, the |
| 5 | motion is GRANTED because Plaintiffs limit |
| 6 | their request to only confidential |
| 7 | information. |
| 8 | The motion is GRANTED in part and DENIED in part, |
| 9 | as set forth above. |
| 10 | 509 Plaintiffs seek permission to file a redacted |
| 11 | version of their post-judgment brief. The |
| 12 | redactions conceal confidential financial |
| 13 | information. The motion is GRANTED because |
| 14 | Plaintiffs limit their request to only confidential |
| 15 | information. |
| 16 | 518 Defendant seeks permission to file redacted |
| 17 | versions of the following four documents: |
| 18 | 1. Defendant's opposition to Plaintiffs' post- |
| 19 | judgment brief. The redactions conceal |
| 20 | confidential financial information. With |
| 21 | regard to Defendant's opposition to |
| 22 | Plaintiffs' post-judgment brief, the motion is |
| 23 | GRANTED because Defendant limits its request |
| 24 | to only confidential information. |
| 25 | 2. The Declaration of Ned S. Barnes (Barnes |
| 26 | Declaration) and supporting exhibits. The |
| 27 | redactions conceal confidential financial |
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| | <p>1 information. With regard to the Barnes 2 Declaration and exhibits, the motion is 3 GRANTED because Defendant limits its request 4 to only confidential information.</p> <p>5 3. Exhibit 1 to the Declaration of Enrique 6 Travieso (Travieso Declaration). The 7 redactions conceal confidential financial 8 information. With regard to Exhibit 1, the 9 motion is GRANTED because Defendant limits its 10 request to only confidential information.</p> <p>11 4. Excerpts from the June 11, 2012 Expert Report 12 of Creighton G. Hoffman (Hoffman Report). The 13 redactions conceal confidential financial 14 information. With regard to the Hoffman 15 Report, the motion is GRANTED because 16 Defendant limits its request to only 17 confidential information.</p> <p>18 For the reasons set forth above, the motion is 19 GRANTED.</p> |
| 522 | Plaintiffs seek permission to file a redacted version of their reply in support of their consolidated post-judgment motion. The redactions conceal confidential financial information. The motion is GRANTED because Plaintiffs limit their request to only confidential information. |

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1 CONCLUSION

2 For the reasons set forth above, the motions to seal at
3 Docket Nos. 489, 509, 518 and 522 are GRANTED. The motion to seal
4 at Docket No. 494 is GRANTED in part and DENIED in part.

5 IT IS SO ORDERED.

6 Dated: September 25, 2014


7 CLAUDIA WILKEN
8 United States District Judge